APPENDIX

[Filed Jan. 12, 1967]

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

No. 20,181 September Term, 1966.

Diana Kearny Powell, Misc. No. 54-65
Appellant

v.

Committee on Admissions
and Grievances,
Appellee

Appeal from the United States District Court for the District of Columbia.

Before: Fahy, McGowan and Leventhal, Circuit Judges.

JUDGMENT

This case came on to be heard on the record on appeal from the United States District Court for the District of Columbia, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by this court that the order of the District Court appealed from in this case is hereby affirmed for the reasons set forth in the attached opinion of this Court.

Dated: Jan. 12, 1967 Per Curiam

PER CURIAM: This is an appeal from a ruling of the District Court disbarring appellant for making repeated allegations of fraudulent and corrupt conduct against judges of the District Court and of this court. The alleged conduct was in connection with their respective decisions at trial and on appeal in a case involving family property in which appellant had a personal stake. The District Court found that appellant's allegations were false and scandalous and were made without justification or foundation in fact. Since the record supports that finding, and this is plainly misbehavior by an attorney constituting ground for disbarment, [1] we affirm.

Counsel for the Grievance Committee stated in argument that the case is an unfortunate one, that appellant seems to have developed an obsession, but that since appellant has declined to recant, notwithstanding opportunities to do so, and since there is plain departure from professional standards, it must press for affirmance.

To avoid any possible misapprehension, it should be noted that this court's affirmance of the disbarment order does not affect the inherent authority of the District Court to reinstate the attorney, or otherwise modify the disbarment order, upon appropriate showing. [2] The order of the District Court is

Affirmed.

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[1] Duke v. Committee on Grievances, 65 App.D.C. 284, 82 F.2d 890, cert. denied, 298 U.S. 662 (1936).

[2] Compare In re Adriaans, 33 App.D.C. 203 (1909).

[Filed Feb. 3, 1967]

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

No. 20,544
(C.A. No. 987-66)

DIANA KEARNY POWELL, Appellant,

v.

ALEXANDER HOLTZOFF, Appellee.

MOTION TO DISMISS APPEAL
OR FOR SUMMARY AFFIRMANCE

Appellee moves the Court to enter an order in the above-captioned case dismissing the appeal as frivolous or summarily affirming the action of the Court below.

In response to appellant's brief, appellee has today filed his brief in this appeal, which is from an order granting summary judgment for appellee and dismissing appellant's complaint in defamation. Appellee is a judge of the United States District Court and the alleged defamation was his characterization as false of appellant's charges concerning a ruling by him; the charges asserted fraud, misconduct and corruption by appellee in reaching his conclusion. Appellee's statements so characterizing appellant's charges were spoken while testifying in disbarment proceedings being conducted against appellant. As is more fully set forth in appellee's brief, his statements were protected, and civil suit foreclosed, by two absolute privileges, either one of which would in itself be sufficient to preclude civil suit: (1) a judicial privilege and (2) the privilege of a witness in a proceeding such as this.

Appellee submits that appellant's attempt to circumvent these absolute privileges and to overturn the action of the court below are so lacking in merit that the appeal is frivolous. Accordingly, appellee respectfully requests that the Court dismiss the appeal as frivolous or enter an order of summary affirmance.

/s/ David G. Bress
United States Attorney

/s/ Frank Q. Nebeker
Assistant United States Attorney

/s/ James A. Strazzella
Assistant United States Attorney

[Certificate of Service]

[Filed Feb. 8, 1967]

OPPOSITION TO MOTION TO DISMISS APPEAL OR FOR SUMMARY AFFIRMANCE

Appellant opposes the motion of Appellee to dismiss the appeal or for summary affirmance on the grounds that:

1. The motion of Appellee states as conclusions questions of law which are at issue to be determined on consideration of the appeal.

2. Dismissal or summary affirmance on the conclusions posed by Appellee would deprive Appellant of due process of law and of the right to petition the Courts as a branch of the Government for redress of wrongs, in violation of her rights under the Constitution of the United States, Amendments 1 and 9.

/s/ Diana Kearny Powell, Appellant
1500 Massachusetts Ave., N.W.
Washington, D. C. 20005

[Filed Mar. 9, 1967]

Before: Danaher, Burger, and Wright,
Circuit Judges, in Chambers.

ORDER

On consideration of appellee's motion to dismiss appeal or for summary affirmance and of appellant's opposition thereto and on consideration of the original record on appeal herein, and appellant's brief, it is

ORDERED by the court that appellee's aforesaid motion for summary affirmance be granted, and the judgment of the District Court appealed from herein is affirmed.

Per Curiam.

Circuit Judge Burger did not participate in the foregoing order.